



U.S. Department of Justice

Environment and Natural Resources Division

*Environmental Enforcement Section
P.O. Box 7611
Washington, DC 20044*

April 30, 2024

Re: *United States and State of Mississippi v. City of Jackson, MS*
Case No. 3:12-cv-790-HTW-LGI (Clean Water Act Case)

United States v. City of Jackson, MS
Case No. 3:22-cv-00686-HTW-LGI (Safe Drinking Water Act Case)

Honorable Judge Wingate:

On April 16, 2024, the Court entered an Order for Release of Supplemental Nutrition Assistance Program Recipients List [Dkt. No. 107] (“SNAP Order”). The SNAP Order required “the relevant federal and/or State agencies implementing the SNAP program” to produce to the interim third-party manager (“ITPM”) a list of the names and addresses of SNAP recipients residing in the zip codes served by JXN Water by April 30, 2024, with updated information to be provided to the ITPM on a quarterly basis. *Id.* at pp. 2, 4. On April 24, 2024, the Court approved a Stipulation for an Extension of Time, until May 14, to respond to the SNAP Order [Dkt. No. 109].¹

On behalf of the U.S. Department of Agriculture (“USDA”), we are writing to advise the Court of the limited nature of the SNAP recipient records in USDA’s possession and are attaching as support the Second Declaration of Rachel Frisk (“Second Frisk Decl.”). We understand the SNAP Order to require USDA to produce a list of current SNAP recipients in the specified zip codes and to provide current information each calendar quarter thereafter beginning on July 1, 2024. As noted in the Second Frisk Decl., the USDA administers the SNAP Program and is the only federal agency implementing SNAP. *Id.* at ¶¶ 1, 5. In Mississippi, the state agency implementing SNAP is the Mississippi Department of Human Services (“MDHS”). *Id.* at ¶ 5. As explained further in the declaration, USDA does not directly collect, maintain, or control information from SNAP households, and is not in possession of any current data on SNAP households. *Id.* at ¶ 4. Based upon USDA’s review of the information in its possession, USDA has only limited SNAP household data from the last three months of calendar year 2023

¹ As noted in the Stipulation, the appropriate governmental officials at the Department of Justice are considering whether to seek further review of the Order. *Id.* at p. 2.

that fell within the covered zip codes, which it obtained from MDHS as part of its quality review process (a sampling process USDA conducts to determine each State's rate of SNAP payment errors). *Id.* at ¶¶ 6-10. That data, which currently includes the names and addresses for 17 randomly sampled households within the zip codes listed in the SNAP Order, is not current. *Id.* at ¶ 10. In the four to six months since that information was submitted to USDA, the SNAP households could have moved, become ineligible for SNAP by exceeding income requirements, voluntarily stopped participating in SNAP, or otherwise been removed from SNAP. *Id.* at ¶ 11. Because the data does not necessarily reflect *current* SNAP participants, USDA does not believe that it is responsive to the SNAP Order's terms or intent. The Order contemplates disclosure of information about SNAP-benefit recipients "*residing*" in the covered zip codes, but as just explained, the four-to-six-month-old data does not necessarily reflect current residence.

Finally, USDA does not have the authority to require MDHS to share household information with USDA or any other person, except as delineated by statute or regulations. *Id.* at ¶ 12. USDA is unaware of any statutory or regulatory process for it to require MDHS to give it data beyond those delineated uses, even if required by Court order. *Id.* As explained in the initial Frisk Declaration [Dkt. No. 93], if MDHS were to disclose SNAP information obtained from households to an unauthorized party, the State could be disqualified from administering SNAP and receiving SNAP funding. Dkt. No. 93 at ¶ 11.

As noted above, after making a diligent effort to determine whether it had responsive data, USDA has determined that it does not possess information that is responsive to the SNAP Order's requirement to provide information about program recipients now "*residing*" in the listed zip codes. The United States remains willing to work with JXN Water on an alternative that would allow the SNAP households to voluntarily disclose this information in order to obtain the significant discount offered by JXN Water for SNAP households.

Respectfully submitted,

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Attachment: Second Declaration of Rachel Frisk

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